

In view of the foregoing amendments and remarks, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections under Section 112.

**REJECTION UNDER 35 U.S.C. § 102**

Claims 1-13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Chen *et al.* (U.S. Pat. No. 5,445,608). This rejection is respectfully traversed.

In rejecting claims 1-13, the Examiner acknowledges that Chen *et al.* does not teach a device having an eye shield that covers an eye and makes only a cursory reference to Figures 10A, 12A and 19 to support his rejection. Chen *et al.* disclose multiple embodiments for an apparatus for providing light-activated therapy. Applicant submits that the teachings of Chen *et al.* are irrelevant to the present invention. A majority of the '608 patent are directed to implantable probes for light-activated therapy. The disclosure relating to Figure 19 relates to the exterior uses of implantable probes for curing or alleviating complications of the common cold and specifically local treatment of the nose, mouth and throat. See, the '608 patent, col. 24, lines 42-49. Specifically, Chen *et al.* disclose a mask plate 278 having and an array of LEDs 280 to illuminate the skin over the maxillary and ethmoidal sinuses and two discrete LEDs 282 to inject light through each nostril vestibule. As such, the mask plate is not configured to cover an eye and the LEDs are not configured to focus a patient's eye at a specific location. Moreover, such positioning of the mask is contrary to the teachings of Chen *et al.* Thus, the present invention as recited in original claims 1 and 9, as well as amended claims 20 and 21 define over the cited art.

For example, Claim 20 recites an eye shield including a relieved portion which covers an eye of a patient and a light source which focuses said eye at said light source

when in said illuminated state during a surgical procedure. Likewise, Claim 21 recites an eye shield including a dome which covers an eye of the patient and a light source which focuses said eye at said light source during a surgical procedure. Applicant has also amended claims 20 and 21 to more particularly point out that a portion of the eye shield, namely, the rim or rim portion, is secured to the patient's face.

The Examiner also states that element 152 of figure 10A and 178 of Figure 12A could be considered tear drop shaped. Applicant respectfully disagree with the Examiner's position. As described in the specification, element 152 is clearly a spheroid (See, the '608 patent, col. 18, line 22) and element 178 is best described as conical. Moreover, these elements are referenced as light-diffusing or light-distributing tips and not an eye shield or a rim portion of the eye shield.

#### **NEW CLAIMS**

Applicant submits new claims 22-26 to claim additional aspects that Applicant regards as the invention. The subject matter of the new claims are fully supported by the application as originally filed including the specification, claims and drawings, and therefore is not new subject matter.

#### **ALLOWABLE SUBJECT MATTER**

Applicant acknowledge the Examiner's indication that claims 14-19 are allowable as originally filed.

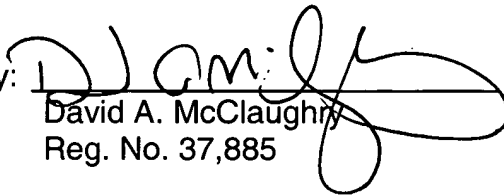
#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests

that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By:   
David A. McClaughry  
Reg. No. 37,885

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600 1233

## **ATTACHMENT FOR CLAIM AMENDMENTS**

The following is a marked up version of each amended claim in which underlines indicates insertions and brackets indicate deletions.

2. (AMENDED) The fixation device according to claim [1] 20 wherein the light source is an LED.

3. (AMENDED) The fixation device according to claim [1] 20 wherein the electrical circuit includes an electrical switch for turning the light source on.

4. (AMENDED) The fixation device according to claim [1] 20 wherein the electrical circuit includes at least one battery for providing DC power to the light source.

5. (AMENDED) The fixation device according to claim [1] 20 wherein the eye shield is made of a material selected from the group consisting of plastic and paper.

6. (AMENDED) The fixation device according to claim [1] 20 wherein [the eye shield] said rim portion has a tear-drop shape.

7. (AMENDED) The fixation device according to claim [1] 20 wherein at least said eye shield of the fixation device is a disposable unit.

10. (AMENDED) The fixation device according to claim [9] 21 wherein the eye shield is made of a material selected from the group consisting of plastic and paper.

11. (AMENDED) The fixation device according to claim [9] 21 wherein [the eye shield] said rim has a tear-drop shape.

12. (AMENDED) The fixation device according to claim [9] 21 wherein at least said eye shield of the fixation device is a disposable unit.